

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance with Rhode Island General Law (RIGL) 42-35 and 42-72-5, notice is hereby given that the Department of Children, Youth and Families proposes to amend the following DCYF rule:

**OBTAINING CUSTODY OF CHILD THROUGH THE DEPENDENCY/NEGLECT/ABUSED
PETITION**

This rule has been amended in compliance with State Plan requirements under Title IV-E of the Social Security Act as amended by Federal law. This revised rule includes provisions of Public Law Public Law (P.L.) 109-288, Child and Family Services Improvement Act of 2006, which requires a child be consulted, in an age-appropriate manner, during permanency hearing regarding proposed permanency or transition plan and that the permanency hearing address whether DCYF has made reasonable efforts to finalize the child's permanency plan, considering in-State and out-of-State permanent placement options. The previous version of this policy, refiled 1/5/07, is superseded by this amended version.

In the development of this rule, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the R.I. Secretary of State website (<http://www.sec.state.ri.us/ProposedRules/>) and the DCYF website (<http://www.dcyf.ri.gov>) or available in hard copy upon request (401 528-3686 or RI Relay, dial 711). Interested persons should submit data, views or written comments by February 27, 2009 to Dorothy Hultine, Implementation Director for Policy & Programs, Department of Children, Youth and Families, 101 Friendship Street, Providence, RI 02903.

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

The Department of Children, Youth and Families does not discriminate on the basis of race, color, national origin or handicap in acceptance for or provision of services or employment in its programs or activities.

Patricia Martinez, Director

Obtaining Custody of Child through the Dependent/Neglected/Abused Petition

Rhode Island Department of Children, Youth and Families

Policy: 1100.0000

Effective Date: July 9, 1984

Revised Date: ~~January 22, 2002~~

Version: ~~65~~

Rhode Island General Laws (RIGL), Chapters 40-11 and 14-1, authorize the Department to petition the Family Court for the commitment of a child to the care, custody, and control of the Department when the child is alleged to be dependent, neglected and/or abused. If the child appears to be in imminent danger of further harm, the Department is mandated by RIGL 40-11-7 to petition the Family Court for immediate removal of that child from his/her home through an Ex Parte Order of Detention. The Department is required to obtain judicial determination regarding reasonable efforts to prevent removal within 60 days of the date the child was removed from the home (refer to Policy 500.0075, [Removal of Child from Home](#)).

The Department is mandated by RIGL 14-1-11.1 to seek commitment of any child who remains in voluntary placement for a period of 12 months. The only exception is when a child with an emotional, behavioral or mental disorder or developmental or physical disability is voluntarily placed with the Department to access an out-of-home program for children with disabilities, including residential treatment programs, residential counseling centers and therapeutic foster care (refer to Policy 700.0015, [Voluntary Placement](#)).

Once a petition has been filed, the Family Court, as provided in RIGL 40-11-12 and 14-1-34, may find the child is dependent, neglected and/or abused and may commit that child to the care, custody, and control of the Department or place the child under the "legal supervision" of the Department. Any child who is alleged to be abused or neglected as a subject of a petition in Family Court, as provided in RIGL 40-11-14, shall have a Guardian Ad Litem and/or a Court Appointed Special Advocate (CASA) assigned by the Court to represent the child. If the parent or other person responsible for the child's care cannot afford legal representation, the Court, at its discretion, may appoint the Public Defender or other counsel to represent that person.

RIGL 14-1-69 allows certain hearsay into evidence at motion hearings, custody trials and termination of parental rights trials where the petition has been filed by the Department. RIGL 14-1-68 and 40-11-7.2 provide for the use of videotaped testimony of a child who is the subject of a petition filed by the Department.

Federal and state law (RIGL 40-11-12.1) require that a Permanency Hearing take place within 12 months of a child's placement in foster care and every 12 months thereafter until permanency is achieved and the case closes. [In any permanency hearing held with respect to the child, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.](#) The permanency hearing must address whether the Department has made reasonable efforts to finalize the child's permanency plan, [considering in-State and out-of-State permanent placement options](#), within 12 months of the time that a child is considered to have entered foster care. The plan shall include whether, and if applicable when, a child will be returned to the parent, placed for adoption or placed with a fit and willing relative, legal guardian or in another planned permanent living arrangement. The Department must document for the Family Court a compelling reason for choosing another planned permanent living arrangement over reunification, guardianship or adoption. In the case of a child who has attained age 16, it shall be decided which services are needed to assist the child with the transition from foster care to independent living. The child's

permanency plan shall clearly set forth the goals and obligations of the Department, parent(s), child and all other parties. At the permanency hearing, the Family Court Judge may approve or modify the plan and incorporate the plan into the orders of the court. RIGL 40-11-12.1 requires that a motion for such a hearing must be filed within 12 months after a child is placed in the care of the Department and the child has been in foster care for that period. A motion is not required in cases in which the Family Court has already scheduled a permanency hearing at the arraignment on the petition. Subsequent Family Court reviews of the child's placement status shall occur no less frequently than every 12 months.

If a parent does not contact the Department once the child comes into foster care, it is the responsibility of the Department to attempt to locate the parent. Unless there is evidence of unfitness based on abandonment, cruelty or other grounds which allow for immediate filing of a TPR petition, the Department must offer reunification services to correct the situation which led to placement. A legal consult should be scheduled to determine whether reunification efforts should be offered in cases of abandonment, cruelty or other severe circumstances. A permanency hearing must be held within 30 days of a judicial determination that reasonable efforts are not required (refer to Policy 500.0075, [Removal of Child from Home](#)).

If a putative father notifies the Department that he may be the father of a child in care, steps must be taken to determine paternity. If a putative father appears in court and executes a denial of paternity form, or fails to appear at arraignment and is defaulted, the Family Court shall find that the Department has no duty to make reasonable efforts to strengthen and encourage the relationship between the child and putative father. Such an order should be prepared by the Department's Office of Legal Counsel.

Related Procedures

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The Initiation and Filing of the Dependent/Neglected/Abused Petition

Procedure From Policy 1100.0000: Obtaining Custody of Child Through the Dependent/Neglected/Abused Petition

- A. The initiation and filing of the Dependent/Neglected Abused Petition:
 - 1. The Department seeks to obtain custody of a child through the filing of a “straight” or Dependent/Neglected/ Abused petition when there is a need for Court action in a case but there is no imminent risk of harm to a child(ren). The worker discusses the situation and need for Court involvement with his/her supervisor.
 - 2. The worker and/or supervisor confer with Legal Counsel.
 - 3. If a decision is made to pursue legal action, the worker prepares and submits the following to Legal Counsel:
 - a. Cover letter addressed to Chief Justice of the Family Court requesting the Court's acceptance of the petition based on the Summary of Facts.
 - b. Summary of Facts to Substantiate Dependency, Neglect and/or Abuse.
 - c. The summary should address services offered to or received by parents to prevent the need for removal.
 - d. A list of proposed witnesses.
 - 4. Department Legal Counsel prepares the petition, reviews the summary and list of proposed witnesses and returns the cover letter, summary and list of proposed witnesses, along with the petition, to the worker who must sign the petition in the presence of a notary.
 - 5. The worker files the cover letter, petition, summary and list of proposed witnesses with the Juvenile Clerk of the Family Court.
 - 6. The Juvenile Clerk oversees the following procedures:
 - a. The Clerk signs and enters the petition.
 - b. The case is assigned a hearing date for arraignment. The worker must enter the assigned hearing date in the Court Activity Window immediately.
 - c. Parent(s) are served with a summons to appear at the Family Court arraignment, or Notice by Publication is made in the newspaper in the area of last known address of a parent whose address is unknown. The petition is not in order for hearing until parent(s) are served or until there is Notice by Publication.
- B. The initiation and filing of an Ex Parte Order of Detention:
 - 1. The Department seeks an Ex Parte Order of Detention to immediately remove a child from his/her parent(s) when the child has suffered abuse or neglect and/or is in imminent danger of further physical or emotional harm.
 - 2. The Detention Order allows the Department to maintain a child in care pending a trial for custody.
 - 3. When a Family Court Judge signs an order contained on the Affidavit in Support of Ex Parte, the Department is awarded temporary custody of the child, and the arraignment is scheduled to be held within seven days (refer to Policy 500.0075 Removal of Child from Home).

The Arraignment or Initial Family Court Hearing and Probable Cause Hearing

Procedure From Policy 1100.0000: Obtaining Custody of Child Through the Dependent/Neglected/Abused Petition

- A. At the arraignment, the question before the Court is, "Does the parent(s) or other person(s) having custody of or legal responsibility for the child admit or deny the allegations in the petition that the child is dependent/neglected/abused?"
 - 1. The Family Court Judge does the following:
 - a. Reads the Department's petition to parent and informs parent that the State is seeking custody of the child.
 - b. Informs the parent(s) of allegations made by the Department.
 - c. Advises parent(s) of his or her right to an attorney, and if he/she cannot afford one, a Public Defender or other counsel will be appointed.
 - d. Advises parent(s) of his or her right to a full hearing where the parent(s) through his/her attorney can present and cross examine witnesses.
 - e. Assures that a GAL or CASA is appointed for the child.
 - f. Makes interim orders to protect the rights and ensure the best interests of the child.
 - 2. The Judge enters an admission or denial of the allegations contained in the petition.
 - a. If the parent(s) admits allegations, this results in the adjudication of the petition and the child may be committed to the care, custody, and control of the Department. With this admission, the parent(s) waives his/her right to trial.
 - b. If the parent(s) denies allegations and there is an Ex Parte or a Court order for the removal of the child, the child may be placed in the temporary custody of the Department and the case is assigned for a trial or pre-trial conference.
 - c. If the parent(s) denies allegations and the child is not removed from the home, the case is assigned for trial. The Judge may order the Department to supervise the child in the home pending trial.
 - 3. If temporary custody is assigned to the Department and the child is placed out of the home against the will of the parent(s), either through an Ex Parte Order of Detention, at the arraignment, or by Court order, a Probable Cause Hearing must be scheduled within ten days of a request for hearing by parent(s) or their counsel. Only the parent(s) can waive the right to have the hearing conducted within ten days.
 - 4. If temporary custody is assigned to the Department and the child is placed out of the home, the Department's attorney shall request the court to schedule a Permanency Hearing to be held within 12 months of removal from the home.
 - 5. If the case goes to trial, the worker should notify Legal Counsel of names, addresses, and expected testimony of any additional potential witnesses not identified in the original list of witnesses.
 - 6. The caseworker should be prepared at arraignment to answer the court's questions about the following:
 - a. The child's current placement
 - b. The availability of suitable relative caretakers as a placement resource
 - c. Services offered to the parent(s) to prevent removal and services that will

- be offered to assist reunification
 - d. Visitation plan
 - e. If parents whereabouts are unknown, the last known addresses
 - f. The reason why petitions may not have been filed on siblings
 - g. Whether or not father's name is on birth certificate
- B. At the Probable Cause Hearing, the main question before the Court is, "Based upon as accurate and reliable information as possible, are there facts and circumstances that would justify a reasonable person to suspect that a child is abused or neglected?" The Court may also consider whether the child continues to need out of home placement even though probable cause existed at time of the child's removal.
 - 1. At the probable cause hearing, credible hearsay evidence is admissible at the discretion of the Court.
 - 2. The following types of evidence can ordinarily be introduced:
 - a. Reports from physicians/nurse practitioners or police. (If there is a criminal case pending, primary service worker must ensure that all information relevant to the pending criminal proceeding is conveyed to legal counsel and incorporated into the record.)
 - b. Prior reports of abuse
 - ~~b-c.~~ The account of interviews conducted with parent(s)
 - ~~c-d.~~ The account of interviews conducted with the child, professionals involved with the case, or any other person if it can be demonstrated that the source is believable
 - ~~d-e.~~ The account of the agency's attempts to make reasonable efforts to prevent placement
 - 3. The investigator and/or caseworker will often be the sole witness at the hearing. The worker is able to use supporting documentation, such as emergency room records, at this hearing.
 - 4. The Family Court Judge must find that there are reasonable grounds to warrant the Ex Parte removal of the child and that there are reasonable grounds to warrant the continued detention of a child pending a trial on the merits.
 - 5. The Family Court Judge determines if probable cause exists.
 - a. If probable cause is found, the child is continued in the temporary custody of the Department (in placement) pending trial.
 - b. If probable cause is not found, the child is returned to the custody of the parent(s). The worker and supervisor should meet with Legal Counsel to reevaluate the basis for the petition and determine if the Department should withdraw the petition.

Pre-Trial Hearing

Procedure From Policy 1100.0000: Obtaining Custody of Child Through the Dependent/Neglected/Abused Petition

- A. A Pre-trial Hearing is an informal conference in which the trial Judge can bring all parties together in an attempt to rectify differences, reach an agreement without a trial, or stipulate for purposes of trial, stipulate to documents as exhibits, provide a list of anticipated witnesses and provide the court with expectations for how long the trial will take.
- B. Prior to a Pre-trial Hearing, the worker and supervisor should discuss possible resolutions of the case to decide which elements of the [case plan/service plan](#) are deemed necessary and appropriate:
 - 1. A Pre-trial hearing usually includes the attorneys for all parties, GAL or CASA, and the assigned Department staff person.
 - 2. The hearing may take place out of the courtroom (i.e., Judge's Chambers or conference room).
 - 3. The proceedings of the hearing outside the courtroom are usually not transcribed onto the record.
 - 4. If closure is reached, the parties will proceed to the court room where the agreement is entered onto the record.
 - 5. If parties are unable to reach agreement, the Judge sets a date for trial, or places the matter on the trial calendar.

Trial

Procedure From Policy 1100.0000: Obtaining Custody of Child Through the Dependent/Neglected/Abused Petition

- A. The question before the Court is, "Are the allegations contained in the petition supported by clear and convincing evidence?" This is defined as "reasonable certainty of the truth of the ultimate fact in controversy; more than a preponderance of evidence but less than proof beyond reasonable doubt." The judge must form a clear conviction without hesitancy of the truth of the precise facts.
- B. The petitioning agency has the burden of proving that the child is in fact dependent, neglected, and/or abused and is in need of the protection of the Court. The State must show that conditions of abuse, neglect and/or dependency that exist in the parent/child relationship are those defined in RIGL chapters 14-1 and/or 40-11.
- C. During the course of a dependency, neglect, and/or abuse trial, the best interests of the child is a primary concern of the Court.
- D. The Court procedure is a "closed session," and the general public is excluded. The attorney can request that witnesses, except the assigned Department staff person and the respondents, be excluded from the hearing. Closed session protects privacy of the parties.
- E. The following persons are normally called upon as witnesses during the trial:
 - 1. Investigator, social worker, and/or law enforcement officer
 - 2. Physician/nurse practitioner or other expert
 - 3. Parent(s) or caretaker(s)
 - 4. Any person(s) having direct knowledge of the alleged abuse or neglect.
- F. The rules of evidence are formal. Hearsay evidence, with certain exceptions, is not admissible.
- G. Admissible Testimony:
 - 1. Witness's observations and experiences
 - 2. Factual and opinion testimony of expert witness
 - 3. Statements made by the parents to the Department prior to trial may be admissible
 - 4. Disclosures made by children age 12 and under regarding abuse or neglect may be admissible through another person to whom the child disclosed if the statement was made under the following circumstances:
 - a. Spontaneously, which can include answers to non-leading questions
 - b. To a person the child would normally turn to for sympathy, protection or advice, which may include departmental staff who identify themselves and their role in protecting the child
 - c. Within a reasonable period of time after the abuse occurred, or at the first safe opportunity to disclose the abuse.
 - d. Children's answers to direct questions will often be admitted through the person who heard them when the circumstances in 1, 2 and 3 above are met.
 - 5. Per RIGL §14-1-68 and RIGL §40-11-7.2, videotaped interviews or statements of victims of child abuse or neglect recorded by the Department, law enforcement officers, and hospitals may be admitted as evidence in Family Court proceedings at the discretion of the presiding Family Court Judge. Certain criteria must be met prior to the admission of the videotaped interview as evidence. The worker should discuss with the Department attorney assigned to the hearing or trial whether the videotaped interview meets the criteria of RIGL §14-1-68 and §40-11-7.2.

6. Records, photographs, and other documents that lend themselves to proper introduction by counsel. (A worker who is aware of such relevant tangible evidence should inform Legal Counsel of its existence prior to trial.)
- H. Prima Facie Evidence - Certain evidence may constitute prima facie evidence ("on its face") to sufficiently sustain the charge contained in the Dependent/Neglected/Abused Petition unless parent(s) can produce evidence in rebuttal. An expert must be called to offer evidence of the following circumstances which constitutes a "prima facie" case:
 1. A medical diagnosis of a battered child syndrome, fetal alcohol syndrome, failure to thrive syndrome, or drug withdrawal symptoms at birth.
 2. Report of examining or treating physician/nurse practitioner that injuries sustained by a minor or a condition of a minor which ordinarily would not be sustained or exist except by reason of the acts or omissions of the caretaker(s).
 3. Utilization by the caretaker(s) of a drug that produced a substantial state of stupor, unconsciousness, intoxication, disorientation, or incompetence with a resultant inability to provide adequate parental care and/or supervision.
- I. The Child Protective Investigator or Social Caseworker is usually presented as the first witness. The Department attorney assigned to the trial should be available for consultation by staff prior to trial.
 1. Defense Counsel may challenge the worker's credentials regarding education and experience in an effort to diminish the credibility to be afforded to decisions made by the worker. The worker should give factual responses and should avoid reacting defensively.
 2. The worker should provide factual testimony directed toward presenting a chronological statement of the case. The worker describes how he/she became involved with the case, the conditions he/she observed, and what actions he/she took prior to filing the petition.
 3. If the child is out of the home, the Defense Attorney will attempt to determine if the Department provided appropriate services to the parent(s) in the home prior to filing a petition for removal of the child. The Defense Attorney's concern will be that the Department has a legal and moral obligation to preserve and strengthen the family and to remove the child only as a last resort.
 4. The worker should convey enough information to establish a need to remove the child from or maintain the child in the home.
 5. The worker should always give honest answers.

11.6. The worker or any witness may use a case record or other notes to refresh his/her recollection during testimony, however, the worker may not read directly from the notes. Any written material used by the witness can be viewed by opposing counsel with the Court's permission.
- J. A physician/nurse practitioner or other expert witness is usually the prime witness for the State in a child abuse trial. The witness must state that in his/her opinion, based on medical certainty, the injuries sustained by the child were incurred by other than accidental means.
- K. If the State is unable to prove its case by clear and convincing evidence, the petition is dismissed, and the Department ceases to be involved with the family unless the family agrees to services.
- L. If the Judge finds the child dependent, neglected, and/or abused, the child may be, and generally is, committed to the care, custody, and control of the Department:
 1. The issues of placement and visitation will be addressed.
 2. The Judge will set a date for the Department to submit a case-planservice plan to the Court. When the Department presents the case-planservice plan to the Court, it is entered into the Court file and is made an order of the Court.

Court Involvement Related to Voluntary Placement

Procedure From Policy 1100.0000: Obtaining Custody of Child Through the Dependent/Neglected/Abused Petition

A. Miscellaneous Petition

1. When a child has been in the voluntary placement of DCYF for 120 days (four months), the assigned caseworker shall prepare a summary of facts to support a miscellaneous petition. The purpose is for the Family Court to assume jurisdiction and to determine whether or not continued placement or a particular placement is in the child's best interest and, if so, whether or not there is an appropriate ~~case plan~~service plan, as outlined in R.I.G.L. §42-72-14(c).
2. The caseworker must schedule a legal consult so a miscellaneous petition may be prepared. If a miscellaneous petition is filed, the caseworker notifies the parent or guardian of the time of the hearing. The Department notifies the Office of the Child Advocate of the filing of the petition and the date of the hearing.
- 5-3. Legal Counsel prepares a miscellaneous petition to bring the matter before the Family Court for review.
- 6-4. The assigned caseworker will do the following if there is any change in circumstance during the interim period while the review is being scheduled:
 - a. Prepare a Court letter outlining the change(s) to be submitted to the Family Court prior to the review.
 - b. Submit a copy of the Court letter to the Office of Legal Counsel.
5. The Family Court must conduct a hearing within 180 days of the voluntary placement of a child.

B. Filing of a Dependent/Neglected/Abused Petition

1. The Department must petition the Family Court for custody of any child who has been voluntarily placed with the Department in foster care for a period of twelve (12) months, except a child with disabilities.
- 3-2. The Department will not seek custody of a child with an emotional, behavioral or mental disorder or developmental or physical disability who has been voluntarily placed with the Department by a parent or guardian to access an appropriate out-of-home program when there are no issues of parental abuse or neglect. Such programs include but are not limited to residential treatment programs, residential counseling centers, and therapeutic foster care programs.
- 5-3. In a hearing on the petition, competent and credible evidence that the child has remained in foster care for twelve (12) months constitutes "prima facie" evidence sufficient to support a finding of dependency by the Court.

C. Permanency Hearing - According to federal law (P.L. 105-89) any child in voluntary placement is subject to the same time frames for permanency, including permanency hearings and termination of parental rights, as for all children in out of home placement.

Review/Motion Hearing

Procedure From Policy 1100.0000: Obtaining Custody of Child Through the Dependent/Neglected/Abused Petition

- A. The question before the Court in a review is, "What is the status of this case?" The review enables the Court to gain insight into the current situation and to monitor the progress that the family and the Department have achieved in reaching the ~~case~~ plans/service plan goal.
- ~~C.B.~~ A Court review is scheduled by the presiding Judge at the conclusion of the trial. The review is usually scheduled six months after this time; however, there may be circumstances which would warrant a hearing prior or subsequent to this interval:
1. At each subsequent review, the presiding Judge will schedule the next review.
 2. The Court will also schedule a hearing upon the filing of a motion by any of the parties (DCYF Legal, GAL, CASA, or parent's attorney). The Review/Motion Hearing can be used by any party to inform the Court that another party is not performing agreed upon tasks or to request changes.
- C. Standard of Proof in Reviews:
1. The review is usually not an evidentiary hearing, so there usually is no formal taking of sworn testimony.
 2. Hearsay and opinion are admissible. The Court will hear all statements which may have bearing on the disposition even if it would be inadmissible at trial.
- ~~5.3.~~ If the review is an evidentiary hearing, the standard of proof is fair preponderance of the evidence.
- D. A motion may be filed to change placement of a child, visitation, custody status, to compel parental compliance, for contempt, for review, or for other purposes. When a motion is filed, the question before the Court is "Has there been a change of circumstances which would warrant the granting of the motion?"
- ~~F.E.~~ Standard of Proof in Motion Hearings:
1. Motions require evidentiary hearings if the parties cannot agree on a resolution. Sworn testimony is usually taken.
 2. The Rules of Evidence apply in motion hearings. Hearsay is not admissible as it would be in a probable cause hearing, unless allowed by the Rules of Evidence.
 3. The party who filed the motion must present proof by a fair preponderance of the evidence.
- F. One of the following outcomes may occur at the Review/Motion Hearing:
1. Custody or placement modified
 2. Other orders modified or amended
 3. Status quo maintained
 4. Petition dismissed

Permanency Hearing

Procedure from Policy 1100.0000: Obtaining Custody of Child Through the Dependent/Neglected/Abused Petition

- A. Permanency hearings are required in the following situations:
1. Federal law [42 U.S.C. §675(5)(C)] requires that a permanency hearing be held within 12 months after a child is considered to have entered foster care, and every 12 months thereafter until the case closes.
 2. State law [R.I.G.L. § 40-11-12.1(a), (g)] requires that the Department file a motion for a permanency hearing when a child is placed for twelve months in the care of the Department or in an out-of-home program for children with disabilities, and that such a hearing occur every 12 months thereafter.
 3. Thirty days after the Family Court makes a determination that no reasonable efforts are required. (Please refer to Policy 500.0075, Removal of a Child from Home.)
 4. Thirty days following a finding by the Family Court terminating parental rights.
- B. Permanency Hearing
1. Family Court shall consider at the permanency hearing whether the Department has made reasonable efforts to finalize the permanency plan that is in effect for a child. The child's health and safety shall be the paramount concern. The assigned social worker ~~should~~ prepares a report to the Court that addresses the reasonable efforts made, including the following: appropriateness of the Department's plan for service to the child and parent; what reunification services have been offered; efforts to evaluate another permanency goal considering in-State and out-of-State permanent placement options when reunification is not likely, and; further efforts that have been or will be made to promote the child's best interests.
 2. In any permanency hearing held with respect to the child, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.
 - 2.3. The Family Court Judge must find that the Department has made reasonable efforts to finalize the permanency plan. Family Court should make explicit findings that include the permanent plan for the child, steps to be taken, time frames for accomplishing the goal and the date of the next hearing. The Family Court may approve or modify the plan presented by the Department and may incorporate the plan into orders of the Court.
 - 3.4. If the Court does not return the child to the care and custody of the parent, guardian or relative and the Court does not direct that foster care of the child and reunification efforts be continued, DCYF shall institute a proceeding within thirty (30) days of the permanency hearing pursuant to Chapter 7 of Title 15 to legally free the child for adoption.
 - 7.5. A court review, administrative review or hearing related to a review of a termination of parental rights' petition cannot substitute for a permanency hearing. A permanency hearing must occur within the prescribed time frame and findings must be made at this hearing.
 6. If a child is in an out-of-State placement at the time of the permanency hearing, the permanency hearing must determine whether the out-of-State foster care placement continues to be appropriate and in the child's best interest.

Role of Guardian Ad Litem (GAL)/Court Appointed Special Advocate (CASA)

Procedure From Policy 1100.0000: Obtaining Custody of Child Through the Dependent/Neglected/Abused Petition

- A. A GAL or CASA is assigned to represent the interests of a child who is the subject of a Dependent/Neglected/Abused Petition. A GAL is an attorney who usually is experienced in juvenile law:
 - 1. A GAL is appointed in situations when there may be a conflict with the CASA office, such as, the when a minor represented by CASA has a child also who has legal involvement with the Department.
 - 2. A GAL can be appointed to represent the interests of a parent who the Court believes may have physical, emotional, or mental limitations which impair his/her abilities to make decisions regarding the best interests of the child and assist counsel in the presentation of the case.
- B. The Office of the Court Appointed Special Advocate is an arm of the Rhode Island Family Court. It consists of several attorneys who are knowledgeable in juvenile law, social workers and volunteers from the community:
 - 1. A volunteer, who is trained by the Office of CASA, may be appointed to assess the situation of a child. The Court allows the volunteer to contact all parties and to have access to Department and Family Court records.
 - 2. An attorney from the Office of CASA, in conjunction with the volunteer, is also appointed to each case. The attorney provides supervision and assistance to the volunteer in his/her efforts to make an accurate assessment and appropriate recommendations.